

§ 58-92-30. Penalties.

(a) A manufacturer, distributor, agent, or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of G.S. 58-92-15, shall be subject to a civil penalty not to exceed one hundred dollars (\$100.00) for each pack of such cigarettes sold or offered for sale provided that in no case shall the penalty against any such person or entity exceed one hundred thousand dollars (\$100,000) during any 30-day period.

(b) A retail dealer who knowingly sells or offers to sell cigarettes in violation of G.S. 58-92-15 shall be subject to a civil penalty not to exceed one hundred dollars (\$100.00) for each pack of such cigarettes sold or offered for sale, provided that in no case shall the penalty against any retail dealer exceed twenty-five thousand dollars (\$25,000) for sales or offers to sell during any 30-day period.

(c) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to G.S. 58-92-20 shall be subject to a civil penalty of at least seventy-five thousand dollars (\$75,000) but not to exceed two hundred fifty thousand dollars (\$250,000) for each such false certification.

(d) Any person violating any other provision in this Article shall be subject to a civil penalty for a first offense not to exceed one thousand dollars (\$1,000), and for a subsequent offense subject to a civil penalty not to exceed five thousand dollars (\$5,000) for each such violation.

(e) Any cigarettes that have been sold or offered for sale that do not comply with the performance standard required by G.S. 58-92-15 shall be subject to forfeiture as contraband under the same procedures as G.S. 75D-5 or G.S. 113-412. Cigarettes forfeited pursuant to this section shall be destroyed; provided, however, that prior to the destruction of any cigarette forfeited pursuant to these provisions, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarette.

(f) In addition to any other remedy provided by law, the Commissioner or Attorney General may file an action in the superior court for a violation of this Article, including petitioning for injunctive relief or to recover any costs or damages suffered by the State because of a violation of this Article, including enforcement costs relating to the specific violation and attorneys' fees. Each violation of this Article or of rules or regulations adopted under this Article constitutes a separate civil violation for which the Commissioner or Attorney General may obtain relief.

(g) Whenever any law enforcement personnel or duly authorized representative of the Commissioner shall discover any cigarettes that have not been marked in the manner required by this Article, such personnel is hereby authorized and empowered to seize and take possession of such cigarettes. Such cigarettes shall be turned over to the Department of Revenue and shall be forfeited to the State. Cigarettes seized pursuant to this section shall be destroyed; provided, however, that prior to the destruction of any cigarette seized pursuant to these provisions, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarette.

(h) Any penalty imposed under this Article shall be payable to the Commissioner.

(i) A violation of this Article constitutes a civil offense only and is not a crime. (2007-451, s. 1; 2009-490, s. 2.)